

Hon. Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASTE ACTION PROJECT,
Plaintiff,

v.

SNOQUALMIE MILL VENTURES LLC;
STEPHEN RIMMER; BROOKWATER
ADVISORS, LLC; THOMAS SROUFE;
DIRTFISH, LLC; MERRILL & RING
FOREST PRODUCTS L.P.; MERRILL &
RING, INC.; HOS BROTHERS
CONSTRUCTION, INC.; FLATIRON
CONSTRUCTORS, INC.; and FLATIRON
WEST, INC.,
Defendants.

Case No. 2:21-CV-00240-MJP

**STIPULATED MOTION AND ORDER
FOR AMENDMENT TO INITIAL
SCHEDULE**

NOTE ON MOTION CALENDAR:
April 29, 2021

I. INTRODUCTION

Plaintiff Waste Action Project and Defendants Snoqualmie Mill Ventures LLC, Stephen Rimmer, Brookwater Advisors, LLC, Thomas Sroufe, Dirtfish LLC, Merrill & Ring Forest Products L.P., Hos Brothers Construction, Inc., Flatiron Constructors, Inc., and Flatiron West, Inc. (collectively, “the parties”) jointly move to align Defendants’ deadlines to serve a

1 responsive pleading and the deadline for Initial Disclosures Pursuant to Federal Rule of Civil
2 Procedure (“FRCivP”) 26(a)(1) established by the Court’s Order Regarding Initial Disclosures,
3 Joint Status Report, and Early Settlement (Dkt. 23). The parties propose a responsive pleading
4 deadline of June 8, 2021 for the parties and an initial disclosure deadline of June 29, 2021. The
5 parties seek this continuance to allow for the more efficient conduct of the case. The parties
6 bring this motion under FRCivP 16(b)(4) and 6(b)(1), and Local Civil Rule (“LCR”) 10(g).

7 8 **II. BACKGROUND**

9 Plaintiff filed this citizen suit under the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et*
10 *seq.*, against Defendants, alleging that Defendants discharge pollutants into waters of the United
11 States without authorization in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and that
12 Defendants violate effluent standards or limitations as defined by Section 505 of the CWA, 33
13 U.S.C. §1365 at a property owned by Defendant Snoqualmie Mill Ventures LLC in Snoqualmie,
14 Washington (the “property”). Defendants Merrill & Ring Forest Products L.P., Hos Brothers
15 Construction, Inc., Flatiron West, Inc., and Dirtfish LLC occupy and use discrete portions of the
16 property for business purposes under lease or license agreements with Snoqualmie Mill Ventures
17 LLC.

18 Defendants Snoqualmie Mill Ventures LLC, Stephen Rimmer, Brookwater Advisors,
19 LLC, Thomas Sroufe, and Dirtfish, LLC timely executed Plaintiff’s request for Waiver of the
20 Service of Summons dated March 2, 2021 on March 22, 2021 (Dkt. 18-22). Defendant Hos
21 Brothers Construction, Inc. timely executed Plaintiff’s request for Waiver of the Service of
22 Summons dated March 18, 2021 on March 18, 2021 (Dkt. 13). Defendants Flatiron Constructors,
23 Inc. and Flatiron West, Inc. timely executed Plaintiff’s request for Waiver of the Service of
24 Summons dated March 23, 2021 on March 24, 2021 (Dkt. 16-17). Defendant Merrill & Ring
25 Forest Products L.P. timely executed Plaintiff’s request for Waiver of the Service of Summons
dated April 8, 2021 on April 23, 2021 (Dkt. 24). Defendant Merrill & Ring, Inc. has not been

1 served with summons and has not waived service of summons. Pursuant to FRCivP
2 12(a)(1)(A)(ii), the Defendants, other than the unserved Merrill & Ring, Inc., have 60 days from
3 the date on which Plaintiff sent each a request for Waiver of the Service of Summons to serve
4 their responsive pleadings. As a result, the answer or motion of the last-served defendant, Merrill
5 & Ring Forest Products L.P., is due under the Federal Rules in early June, and this Stipulated
6 Motion simply seeks to align the dates for all the currently served defendants and provide for
7 initial disclosures from all parties shortly thereafter.

8 The Court issued an order on March 30, 2021 (the “order”) setting a deadline of April 27,
9 2021 to hold a FRCivP 26(f) Conference, a deadline of May 4, 2021 to submit Initial Disclosures
10 Pursuant to FRCivP 26(a)(1), and a deadline of May 11, 2021 to submit a Combined Joint Status
11 Report and Discovery Plan. In compliance with the order, the parties convened for the FRCivP
12 26(f) Conference on April 27, 2021 and intend to submit a Joint Status Report and Discovery
13 Plan as required by May 11, 2021. The parties’ requested extension and alignment of schedules
14 will facilitate the efficient conduct of the case moving forward.

15 III. PROPOSED AMENDED SCHEDULE

16 The parties respectfully request that the initial schedule be amended to provide the parties
17 with sufficient time to work cooperatively and efficiently, for Defendants to align their answers
18 or motions, and for all parties to prepare meaningful initial disclosures. The parties’ proposed
19 amended dates are as follows:
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	Current Deadline	Proposed Deadline
Snoqualmie Mill Ventures LLC, Stephen Rimmer, Brookwater Advisors, LLC, Thomas Sroufe, Dirtfish, LLC responsive pleadings due (see FRCivP 12(a)(1)(A)(ii))	May 3, 2021	June 8, 2021
Hos Brothers Construction, Inc. responsive pleading due	May 18, 2021	June 8, 2021
Flatiron Constructors, Inc. and Flatiron West, Inc. responsive pleadings due	May 24, 2021	June 8, 2021
Merrill & Ring Forest Products L.P. responsive pleading due	June 8, 2021	June 8, 2021
Initial disclosures due (see FRCivP 26(a)(1))	May 4, 2021	June 29, 2021

IV. AUTHORITY AND REASONS JUSTIFYING THE PROPOSED SCHEDULE AMENDMENTS

FRCivP 6(b)(1)(A) grants the Court authority, for good cause, to extend the time parties have to serve responsive pleadings. Defendants, while intending to present their defenses separately, share certain common interests and defenses by nature of their connection to the property that will be reflected in their respective responsive pleadings. Alignment of their deadlines to serve responsive pleadings will allow for Defendants to work cooperatively to prepare their responses, allow for Plaintiff to respond to Defendants' pleadings in a uniform and timely manner, and allow the Court to narrow the set of issues at the outset, if appropriate, thereby reducing costs for all parties and promoting efficiency. The parties therefore agree that alignment of Defendants' deadlines to file responsive pleadings to June 8, 2021, as outlined in Part III above, is necessary and helpful for the parties to efficiently and effectively prepare and serve their responsive pleadings and replies. In the event an additional party is joined in this action, the Federal Rules will govern the joined party's responsive pleading deadline.

1 Stipulated motions seeking to alter a schedule set by the Court must “clearly state the
2 reasons justifying the proposed change.” LCR 10(g). All parties will ultimately benefit from a
3 schedule that is based on the date the last party was served with the complaint. By way of
4 illustration, here, Merrill & Ring Forest Products L.P. agreed to waive service of summons less
5 than one week prior to the filing of this Stipulated Motion, leaving little time to prepare a
6 substantive response to the Complaint or initial disclosures. The parties agree that the avenue
7 most likely to end in effective and thoughtful initial disclosures is to extend the deadline to
8 shortly after Defendants’ responsive pleadings, or June 29, 2021.

9 **V. CONCLUSION**

10 For the foregoing reasons, the parties respectfully request an amendment to the initial
11 schedule as proposed.

12 RESPECTFULLY SUBMITTED this 29th day of April, 2021.

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IT IS SO ORDERED
DATED THIS 3rd DAY OF May, 2021



HON. MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE